

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

FIRST REGULAR SESSION  
SIXTIETH LEGISLATURE

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**FIFTY-FOURTH LEGISLATIVE DAY**  
**FRIDAY, MARCH 6, 2009**

Senate Chamber

President Little called the Senate to order at 11:30 a.m.

Roll call showed all members present except Senator Keough and Acting Senator Thorson, absent and formally excused by the Chair; and Senators Cameron, Coiner, Darrington, McGee, McKague, Pearce, Schroeder, and Stegner, absent and excused.

Prayer was offered by Senator Mortimer.

The Pledge of Allegiance was led by Katrina Clayson, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 5, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Coiner, Darrington, McGee, McKague, and Schroeder were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

#### SCR 107

#### BY STATE AFFAIRS COMMITTEE

#### A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH STATED EXCEPTIONS, REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED AND PROVIDING AN EFFECTIVE DATE FOR A CERTAIN RULE.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that

impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Bureau of Occupational Licenses governing Rules of the Board of Naturopathic Medical Examiners is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Health and Welfare governing the Idaho Child Care Program (ICCP) is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Department of Environmental Quality, Ground Water Quality Rule shall become final and effective on July 1, 2009; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2009 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 24.24.01, Rules of the Bureau of Occupational Licenses, Rules of the Board of Naturopathic Medical Examiners, adopted as pending fee rules under Docket Number 24-2401-0801, the entire rulemaking docket;

IDAPA 16.06.12, Rules of the Department of Health and Welfare, Idaho Child Care Program (ICCP), Section 009, Criminal History and Background Check Requirements, Subsection 03, Individual in the Home, only, adopted as a pending fee rule under Docket Number 16-0612-0802;

IDAPA 52.01.03, Rules of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery, adopted as pending fee rules under Docket Number 52-0103-0802, the entire rulemaking docket; and

IDAPA 49.01.01, Rules of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board, Section 500, Disciplinary Penalty, Subsection 01, Civil Fine, only, adopted as a pending fee rule under Docket Number 49-0101-0801.

BE IT FURTHER RESOLVED that IDAPA 24.24.01, Rules of the Bureau of Occupational Licenses, Rules of the Board of Naturopathic Medical Examiners, adopted as pending fee rules under Docket Number 24-2401-0801, the entire rulemaking docket; IDAPA 16.06.12, Rules of the Department of Health and Welfare, Idaho Child Care Program (ICCP), Section 009, Criminal History and Background Check Requirements, Subsection 03, Individual in the Home, only, adopted as a pending fee rule under Docket Number 16-0612-0802; IDAPA 52.01.03, Rules of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery, adopted as pending fee rules under Docket Number 52-0103-0802, the entire rulemaking docket; and IDAPA 49.01.01, Rules of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board, Section 500, Disciplinary Penalty, Subsection 01, Civil Fine, only, adopted as a pending fee rule under Docket Number 49-0101-0801 are hereby rejected and not approved, and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

BE IT FURTHER RESOLVED that IDAPA 58.01.11, Rules of the Department of Environmental Quality, Ground Water Quality Rule, adopted as a pending rule docket under Docket Number 58-0111-0801, the entire rulemaking docket, shall become effective on July 1, 2009.

**SCR 108**  
**BY STATE AFFAIRS COMMITTEE**  
**A CONCURRENT RESOLUTION**

STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF IDAHO:

WHEREAS, THE LEGISLATURE BY STATUTE MUST APPROVE TEMPORARY RULES BY ADOPTION OF A CONCURRENT RESOLUTION APPROVING THE RULE IF THE TEMPORARY RULE IS TO REMAIN IN EFFECT BEYOND THE END OF THE CURRENT LEGISLATIVE SESSION; AND

WHEREAS, THE EXPIRATION OF TEMPORARY RULES WOULD OCCASION ADDITIONAL EXPENSE TO STATE AGENCIES IN READOPTING AND REPUBLISHING TEMPORARY RULES NEEDED TO CONDUCT STATE BUSINESS; AND

WHEREAS, THE LEGISLATURE FINDS THAT IT IS IN THE PUBLIC INTEREST TO ADOPT THIS RESOLUTION.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE FIRST REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE, THE SENATE AND THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN, THAT ALL TEMPORARY RULES ADOPTED BY STATE AGENCIES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND SUBMITTED TO THE LEGISLATURE AT THE LEGISLATURE'S REQUEST THROUGH THE OFFICE OF RULES COORDINATOR FOR REVIEW DURING THE 2009 LEGISLATIVE SESSION, AND

ALL TEMPORARY RULES PREVIOUSLY APPROVED AND EXTENDED BY CONCURRENT RESOLUTION ADOPTED IN A PRIOR REGULAR SESSION OF THE IDAHO LEGISLATURE, BE, AND THE SAME ARE APPROVED.

BE IT FURTHER RESOLVED THAT A TEMPORARY RULE OR PARTIAL TEMPORARY RULE APPROVED BY THIS CONCURRENT RESOLUTION SHALL REMAIN IN EFFECT UNTIL IT EXPIRES BY ITS OWN TERMS OR BY OPERATION OF LAW OR UNTIL IT IS REPLACED BY A FINAL RULE, BUT IN NO EVENT SHALL A TEMPORARY RULE REMAIN IN EFFECT BEYOND THE CONCLUSION OF THE SECOND REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE UNLESS IT IS FURTHER EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION BY BOTH HOUSES OF THE LEGISLATURE. TEMPORARY RULES OR SECTIONS OF TEMPORARY RULES WHICH WERE NOT SUBMITTED TO THE LEGISLATURE FOR REVIEW DURING THE 2009 LEGISLATIVE SESSION SHALL EXPIRE BY OPERATION OF STATUTE UPON ADJOURNMENT OF THE FIRST REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE, UNLESS APPROVED BY ADOPTION OF A SEPARATE CONCURRENT RESOLUTION BY BOTH HOUSES OF THE LEGISLATURE.

[SCR 107](#) and [SCR 108](#) were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

Senator Pearce was recorded present at this order of business.

The Senate advanced to the Sixth Order of Business.

**Reports of Standing Committees**

March 6, 2009

The JUDICIARY AND RULES Committee reports that [S 1136](#), [S 1137](#), [S 1138](#), [S 1139](#), and [S 1140](#) have been correctly printed.

DARRINGTON, Chairman

[S 1136](#) and [S 1137](#) were referred to the Transportation Committee.

[S 1138](#) and [S 1139](#) were referred to the Local Government and Taxation Committee.

[S 1140](#) was referred to the Judiciary and Rules Committee.

March 5, 2009

The JUDICIARY AND RULES Committee reports that [S 1052](#) has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled [S 1052](#) and ordered it transmitted to the House for the signature of the Speaker.

Senator Stegner was recorded present at this order of business.

March 5, 2009

The TRANSPORTATION Committee reports out [H 152](#), [S 1104](#), and [S 1131](#) with the recommendation that they do pass.

MC GEE, Chairman

[H 152](#), [S 1104](#), and [S 1131](#) were filed for second reading.

March 5, 2009

The EDUCATION Committee reports out [S 1132](#) with the recommendation that it be referred to the State Affairs Committee.

GOEDDE, Chairman

There being no objection, [S 1132](#) was referred to the State Affairs Committee.

March 5, 2009

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 121](#), [H 119](#), [H 142](#), and [H 10](#) with the recommendation that they do pass.

HILL, Chairman

[H 121](#), [H 119](#), [H 142](#), and [H 10](#) were filed for second reading.

March 5, 2009

The HEALTH AND WELFARE Committee reports out [S 1127](#) with the recommendation that it do pass.

LODGE, Chairman

[S 1127](#) was filed for second reading.

March 6, 2009

The STATE AFFAIRS Committee reports out [S 1133](#) with the recommendation that it do pass.

MCKENZIE, Chairman

[S 1133](#) was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

March 5, 2009

Dear Mr. President:

I transmit herewith [H 199](#), which has passed the House.

ALEXANDER, Chief Clerk

[H 199](#) was filed for first reading.

March 6, 2009

Dear Mr. President:

I transmit herewith [H 125](#), [H 126](#), [H 127](#), [H 201](#), [H 107](#), [H 179](#), [H 184](#), and [H 168](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 125](#), [H 126](#), [H 127](#), [H 201](#), [H 107](#), [H 179](#), [H 184](#), and [H 168](#) were filed for first reading.

March 5, 2009

Dear Mr. President:

I return herewith [SP 101](#), which has passed the House.

ALEXANDER, Chief Clerk

[SP 101](#) was ordered filed in the office of the Secretary of the Senate.

March 5, 2009

Dear Mr. President:

I return herewith Enrolled [S 1079](#), which has been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1079](#) was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

March 5, 2009

Dear Mr. President:

I transmit herewith Enrolled [HCR 13](#) for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [HCR 13](#) and ordered it returned to the House.

March 6, 2009

Dear Mr. President:

I transmit herewith Enrolled [HCR 16](#) for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [HCR 16](#) and ordered it returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**S 1141**

**BY STATE AFFAIRS COMMITTEE**

**AN ACT**

RELATING TO FISH AND GAME; AMENDING SECTION 36-416, IDAHO CODE, TO REVISE LICENSE FEES; REPEALING SECTION 36-1104, IDAHO CODE, RELATING TO SPECIAL BEAVER TAGS; AMENDING SECTION 36-1104A, IDAHO CODE, TO DELETE REFERENCE TO LYNX TAGS AND FEES AND TO PROVIDE FOR OTTER TAGS AND FEES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

**S 1142**

**BY STATE AFFAIRS COMMITTEE**

**AN ACT**

RELATING TO OPEN PUBLIC MEETINGS; AMENDING SECTION 67-2343, IDAHO CODE, TO AMEND PROVISIONS RELATING TO NOTICE REQUIREMENTS FOR MEETINGS AND AGENDAS; AMENDING SECTION 67-2344, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE WRITTEN MINUTES OF MEETINGS; AMENDING SECTION 67-2345, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EXECUTIVE SESSIONS; AND AMENDING SECTION 67-2347, IDAHO CODE, TO REVISE PROVISIONS RELATING TO VIOLATIONS.

**S 1143**

**BY STATE AFFAIRS COMMITTEE**

**AN ACT**

RELATING TO PROCEEDINGS BEFORE THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-622, IDAHO CODE, TO REVISE THE PUBLIC UTILITIES COMMISSION'S AUTHORITY REGARDING RATE, FARE, TOLL, RENTAL, CHARGE, CLASSIFICATION, CONTRACT, PRACTICE, RULE, SERVICE OR REGULATION, TO REVISE PROCEDURES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 61-623, IDAHO CODE, RELATING TO DETERMINATION OF SCHEDULE AND REGULAR RATES BY THE PUBLIC UTILITIES COMMISSION.

S 1141, S 1142, and S 1143 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 199, by Education Committee, was introduced, read the first time at length, and referred to the Finance Committee.

H 125, H 126, and H 127, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 201, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 107, H 179, H 184, and H 168, by Judiciary, Rules, and Administration Committee, were introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

Senator Cameron was recorded present at this order of business.

S 1123, by State Affairs Committee, was read the second time at length and filed for third reading.

H 137, by Resources and Conservation Committee, was read the second time at length and filed for third reading.

H 59 and H 60, by Judiciary, Rules, and Administration Committee, were read the second time at length and filed for third reading.

S 1128, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

H 99 and H 100, by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

**General Calendar**

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

**Report of the Committee of the Whole**

Senator Stegner, Chairman of the Committee of the Whole, reported out S 1109 and S 1112, without recommendation, amended as follows:

**SENATE AMENDMENT TO S 1109  
AMENDMENT TO SECTION 2**

On page 1 of the printed bill, in line 27, delete "or other licensed"; and in line 28, delete "medical facilities".

**AMENDMENT TO SECTION 3**

On page 2, in line 18, following "verifiable" insert: "lot number and"; in line 25, following "entities" insert: "that are licensed or registered in the state of Idaho"; in line 26, delete "licensed in the state of Idaho"; in line 27, following "Hospitals" delete ";," and insert: "and"; also in line 27, delete "or other

licensed medical facilities"; and on page 3, following line 2, insert:

"(9) Nothing in the Idaho legend drug donation act shall prohibit or restrict the return of unused prescription drugs to the Idaho medicaid program pursuant to rules promulgated by the Idaho department of health and welfare."

#### SENATE AMENDMENT TO S 1112

##### AMENDMENT TO SECTION 9

On page 6 of the printed bill, delete lines 27 and 28 and insert:

"(f) Firearms or other weapons which are stored on the premises of a daycare facility must be kept in a locked container that is inaccessible to children while daycare attendees are present;".

##### AMENDMENT TO SECTION 9

On page 7 of the printed bill, delete lines 21 through 38 and insert:

"(a) In no event shall the child-staff ratio require more than one (1) staff member to six (6) children for all children age ~~eighteen~~ twenty-four (24) months or less; more than one (1) staff member to ~~twelve~~ eight (8) children for all children above age ~~eighteen~~ twenty-four (24) months but less than ~~five~~ three (3) years; and more than one (1) staff member to ~~eighteen~~ ten (10) children for all children age three (3) years but less than four (4) years; more than one (1) staff member to twelve (12) children for all children age four (4) years but less than five (5) years; and more than one (1) staff member to eighteen (18) children for all children whose age is five (5) years or more. The maximum group size for all groups shall not exceed twice the number of children allowed for a single staff member.

#### Number of Children Allowed and Maximum Group Size Table

Number of required staff	Children: birth to twenty-four (24) months		Children: three (3) years but less than four (4) years		Children: four (4) years but less than five (5) years		Children: five (5) years or more	
	Children: birth to twenty-four (24) months	Children: twenty-four (24) months but less than three (3) years	Children: three (3) years but less than four (4) years	Children: four (4) years but less than five (5) years	Children: four (4) years but less than five (5) years	Children: five (5) years but less than six (6) years	Children: five (5) years or more	Children: six (6) years or more
1	6	8	10	12	12	18	18	24
2	12	16	20	24	24	36	36	48
Maximum group size	12	16	20	24	24	36	36	48

##### AMENDMENT TO SECTION 8

On page 6 of the printed bill, in line 2, delete "and is"; and in line 3, delete "enforcing its ordinance."

The Committee also has [S 1055](#), [S 1092](#), [S 1095](#), [S 1074](#), as amended, and [H 70](#) under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Werk, the report was adopted by voice vote.

[S 1109](#), as amended, and [S 1112](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

#### Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:30 p.m. until the hour of 10:30 a.m., Monday, March 9, 2009.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary